

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JAMES EZELL, III,

Plaintiff,

v.

Case No. 19-CV-302-JFH-SPS

DAMON HININGER, et al.,

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF’S
SIXTH MOTION FOR APPOINTMENT OF COUNSEL**

Plaintiff has filed his sixth motion for appointment of counsel (Doc. No. 180). He alleges that on May 3, 2018, he was illegally transferred from James Crabtree Correctional Center to Davis Correctional Facility (“DCF”). *Id.* at 1. He claims the defendants used “S.T.G. (Security Threat Group)/Phrases to Threaten, Intimidate and Cause Harm.” *Id.* He also asserts that on May 20, 2021, he was transferred to the S.T.G. unit at Lawton Correctional Facility. *Id.* at 2. While unclear, Plaintiff appears to be claiming that this placement placed him in imminent danger, and his documents remained at DCF. *Id.* He also alleges that his letters to “attorney Arnett” concerning representation were unanswered. Plaintiff, therefore, argues that appointment of counsel is appropriate. *Id.*

Plaintiff previously has been advised that there is no constitutional right to appointment of counsel in a civil case. *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989); *Carper v. DeLand*, 54 F.3d 613, 616 (10th Cir. 1995). He also has been advised

that he bears the burden of convincing the Court that his claim has sufficient merit to warrant such appointment. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)).

The Court again has carefully reviewed the merits of Plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *See McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). The Court finds Plaintiff's complaints about his transfers and his placement in S.T.G. do not warrant appointment of counsel. Also, the nature of the facts and the complexity of the legal issues in Plaintiff's claims are not sufficient to appoint counsel.

THEREFORE, Plaintiff's sixth motion for appointment of counsel (Doc. No. 180) is **DENIED**.

IT IS SO ORDERED this 18th day of August 2021.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE